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8 ABDEL FATAH ELLAWENDY,
9 Petitioner,

10 v.
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12 MONTEREY COUNTY SUPERIOR
13 COURT,
14 Respondent.
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16 Case No. 20-00869 BLF (PR)
17

18 **ORDER DENYING CERTIFICATE
19 OF APPEALABILITY**

20 Petitioner, a state prisoner proceeding *pro se*, filed a petition for a writ of habeas
21 corpus pursuant to 28 U.S.C. § 2254, challenging his conviction. Dkt. No. 1. On June 3,
22 2020, the Court dismissed the action for failure to exhaust state judicial remedies. Dkt.
23 No. 3. Petitioner appealed, and the United States Court of Appeals for the Ninth Circuit
24 remanded the matter for the limited purpose of granting or denying a certificate of
25 appealability. Dkt. No. 7.

26 In dismissing the instant action, which was Petitioner's second federal habeas
27 petition filed in this district, the Court found that Petitioner had only gone so far as to
28 appeal the state appellate court at the time he filed the action. Dkt. No. 3 at 2.
Furthermore, Petitioner had subsequently filed a third habeas action which indicated that

1 he had finally sought direct review with the state high court and was denied relief. *Id.*,
2 citing *Ellawendy v. Monterey Cty. Sup. Ct.*, Case No. 20-02708 BLF, Dkt. No. 1 at 3.
3 Accordingly, the Court dismissed the action, stating that the matter would proceed under
4 the more recently filed habeas action. *Id.*

5 For the foregoing reasons, the Court finds that no certificate of appealability is
6 warranted in this case. Petitioner has not shown “that jurists of reason would find it
7 debatable whether the petition states a valid claim of the denial of a constitutional right and
8 that jurists of reason would find it debatable whether the district court was correct in its
9 procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

10 The Clerk of the Court shall forward a copy of this order to the Ninth Circuit.

11 **IT IS SO ORDERED.**

12 **Dated:** June 7, 2020



BETH LABSON FREEMAN
United States District Judge

Northern District of California

25 Order Denying COA
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